

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION

SYBASE, INC.,

Plaintiff,

v.

VERTICA SYSTEMS, INC.,

Defendant.

CIVIL ACTION NO. 6:08-cv-24 (LED)

JURY TRIAL DEMANDED

**DEFENDANT VERTICA SYSTEMS, INC.'S ANSWER
TO PLAINTIFF SYBASE, INC.'S COMPLAINT**

Defendant Vertica Systems, Inc. (hereinafter "Vertica") hereby answers the Complaint of Plaintiff Sybase, Inc. ("Sybase"). Vertica denies all allegations not expressly admitted below.

JURISDICTION

1. Vertica admits that the Complaint purports to state a claim for patent infringement, but denies that there have been any acts of infringement.
2. Vertica admits that this Court has subject matter jurisdiction over patent infringement actions.
3. Vertica does not contest personal jurisdiction for the purposes of this action, but denies each and every other allegation of Paragraph 3.
4. Vertica denies each and every allegation of paragraph 4.
5. Vertica denies each and every allegation of paragraph 5.
6. Vertica denies each and every allegation of paragraph 6.
7. Vertica denies each and every allegation of paragraph 7. Vertica does not contest personal jurisdiction for the purposes of this action.

VENUE

Vertica incorporates by references its responses to paragraphs 1-7.

8. Vertica denies each and every allegation of Paragraph 8. Vertica asserts that this action should be transferred to the United States District Court for the District of Massachusetts pursuant to 28 U.S.C. § 1404(a), as described in Vertica's Motion to Transfer Venue, filed contemporaneously with this Answer.

9. Vertica denies each and every allegation of paragraph 9.

PARTIES

Vertica incorporates by references its responses to paragraphs 1-9.

10. Vertica does not have sufficient information to admit or deny the allegations of paragraph 10 and, therefore, denies these allegations.

11. Vertica does not have sufficient information to admit or deny the allegations of paragraph 11 and, therefore, denies these allegations.

12. Vertica does not have sufficient information to admit or deny the allegations of paragraph 12 and, therefore, denies these allegations.

13. Vertica does not have sufficient information to admit or deny the allegations of paragraph 13 and, therefore, denies these allegations.

14. Vertica does not have sufficient information to admit or deny the allegations of paragraph 14 and, therefore, denies these allegations.

15. Vertica does not have sufficient information to admit or deny the allegations of paragraph 15 and, therefore, denies these allegations.

16. Vertica admits the allegations of paragraph 16, but clarifies that Vertica's sole place of business is located in Andover, Massachusetts.

SYBASE'S FIRST CLAIM FOR RELIEF

(Alleged Patent Infringement)

Vertica incorporates by references its responses to paragraphs 1-16.

17. Vertica admits that United States Patent No. 5,794,229 (“the ‘229 patent”) bears the title “DATABASE SYSTEM WITH METHODOLOGY FOR STORING A DATABASE TABLE BY VERTICALLY PARTITIONING ALL COLUMNS OF THE TABLE” and bears an issue date of August 11, 1998. Vertica does not have sufficient information to admit or deny the remaining allegations of paragraph 17, and therefore, denies these allegations.

18. Vertica does not have sufficient information to admit or deny the allegations of paragraph 18 and, therefore, denies these allegations.

19. Vertica does not have sufficient information to admit or deny the allegations of paragraph 19 and, therefore, denies these allegations.

20. Vertica denies each and every allegation of paragraph 20.

21. Vertica denies each and every allegation of paragraph 21.

22. Vertica denies each and every allegation of paragraph 22.

23. Vertica denies each and every allegation of paragraph 23.

24. Vertica denies each and every allegation of paragraph 24.

25. Vertica denies each and every allegation of paragraph 25.

DEMAND FOR JURY TRIAL

26. Vertica, under Rule 38 of the Federal Rules of Civil Procedure, requests a trial by jury of any issues so triable.

AFFIRMATIVE DEFENSES

Vertica pleads the following affirmative defenses:

1. The complaint fails to state a claim against Vertica upon which relief can be granted.
2. The '229 patent, and each claim thereof, is invalid and/or unenforceable for failure to meet at least one of the requirements of patentability set forth in 35 U.S.C. 1 *et seq.*, including without limitation, the requirements in §§ 101, 102, 103 and/or 112, and the rules, regulations and laws pertaining thereto.
3. Vertica has not directly infringed, has not contributorily infringed, and has not induced infringement of any valid and enforceable claim of the '229 patent and is not liable for any infringement of the '229 patent.
4. Vertica has not willfully infringed any valid and enforceable claim of the '229 patent.
5. Sybase's claims for relief are barred in whole or in part by the doctrines of waiver and estoppel, including prosecution history estoppel.
6. Vertica reserves the right to assert additional defenses which may become apparent during discovery in this action.

PRAYER FOR RELIEF

WHEREFORE, Vertica respectfully requests:

1. That this Court dismiss the Complaint against Vertica with prejudice;
2. That this Court enter a judgment denying any and all relief which Sybase requests;

3. That this Court enter a judgment that Vertica has not infringed and does not infringe the '229 patent;

4. That this Court enter a judgment that Vertica has not induced and does not induce infringement of the '229;

5. That this Court enter a judgment that Vertica has not contributorily infringed and does not contributorily infringe the '229;

6. That this Court enter a judgment that Vertica has not willfully infringed and does not willfully infringe the '229;

7. That this Court enter a judgment denying any award to Sybase for damages, enhanced damages, interest, costs, or attorneys' fees;

8. That this Court deny any injunction against Vertica;

9. That this Court enter a judgment that the '229 patent is invalid and unenforceable;

10. That this Court declare this case exceptional and award Vertica its reasonable costs, expenses and attorneys' fees;

11. That this Court award Vertica any and all other relief to which Vertica may show itself to be entitled.

Dated: March 20, 2008 Respectfully submitted,

By: /s/

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Counsel for Defendant Vertica Systems, Inc.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the above and foregoing document has been served on March 20, 2008 to all counsel of record who are deemed to have consented to electronic service via the Court's CM/ECF system per Local Rule CV-5(a)(3). Any other counsel of record will be served by first class mail.

/s/

R. Ritch Roberts III